

9 VAC 20-130-10 ET SEQ. REGULATIONS FOR SOLID

WASTE MANAGEMENT PLANNING

**VIRGINIA WASTE MANAGEMENT BOARD**

Title of Regulation: ~~9 VAC 20-130-10 et seq. Regulations for the Development of Solid Waste Management Plans Planning~~ (amending 9 VAC 20-130-10 through 9 VAC 20-130-70, 9 VAC 20-130-90, 9 VAC 20-130-110 through 9 VAC 20-130-150, ~~9 VAC 20-130-180,~~ 9 VAC 20-130-190, 9 VAC 20-130-220, and 9 VAC 20-130-230; adding 9 VAC 20-130-165 and 9 VAC 20-130-175; repealing 9 VAC 20-130-80, 9 VAC 20-130-160, 9 VAC 20-130-170, and 9 VAC 20-130-240).

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**PART I  
DEFINITIONS**

**9 VAC 20-130-10. Definitions.**

The following words and terms, when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

"*Abandoned material*" means any material that is: ~~1-~~ disposed of; ~~2-~~ burned or incinerated; or ~~3-~~ accumulated, stored or treated (but not recycled) before or instead of being abandoned by being disposed of, burned or incinerated.

"*Agricultural waste*" means all solid waste produced from farming operations, or related commercial preparation of farm products for marketing.

"*Board*" means the Virginia Waste Management Board.

"*Commercial waste*" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

~~"*Construction/demolition/debris landfill*" means a land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, inert waste, or combinations of the above solid wastes.~~

"*Composting*" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"*Construction waste*" means solid waste which is produced or generated during construction of, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction waste consists of wastes include, but are not limited to, lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if they are part of the construction material or are empty containers for such materials. Paints, coatings, solvents, asbestos-containing material, any liquid, compressed gases, liquids or semi-liquids and garbage are not construction wastes.

"*Contamination*" means the degradation in quality of naturally occurring water, air, or soil resulting either directly or indirectly from human activity.

"*Debris waste*" means ~~stumps, wood, brush, and leaves~~ waste resulting from land clearing operations. Debris wastes include, but are not limited to, stumps, wood, brush, leaves, soil, and road spoils.

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"*Demolition waste*" means solid waste produced by destruction of structures and their foundations and includes the same materials as construction wastes.

"*Department*" means the Department of Environmental Quality.

"*Director*" means the Director of the Department of Environmental Quality [or his designee].

"*Discarded material*" means a material ~~which~~ *that* is: (i) abandoned material as defined in this [part chapter]; (ii) recycled material as defined in this [part chapter]; or (iii) considered inherently waste-like.

"*Disposal*" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

"*Facility*" means solid waste management facility unless the context clearly indicates otherwise.

~~"*Free liquids*" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Liquids Test, Method 9095, U.S. Environmental Protection Agency, Publication SW-846.~~

"*Friable asbestos*" means any material containing more than 1.0% asbestos by weight that, when dry, may be crumbled, pulverized or reduced to powder by hand pressure and regulated as a special waste.

"*Garbage*" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

~~"*Groundwater*" means any water [except capillary moisture or unsaturated zone moisture, beneath below] the land surface in [the a] zone of saturation [or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, or otherwise occurs].~~

"*Hazardous waste*" means a "hazardous waste" as defined by the Virginia Hazardous Waste Management [Regulation Regulations, 9 VAC 20-60-10 et seq].

"*Household waste*" means any waste material, including garbage, trash and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. *Household wastes do not include sanitary waste in septic tanks (septage), which is regulated by other state agencies.*

~~"*Illegal disposal*" means disposal which is contrary to applicable law or regulations.~~

"*Incineration*" means the controlled combustion of solid waste for disposal.

"*Incinerator*" means a facility or device designed for the treatment for volume reduction of solid waste by combustion.

"*Industrial waste*" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

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~~"Industrial waste landfill"~~ means a solid waste landfill used primarily for the disposal of a specific industrial waste or a waste ~~which~~ *that* is a byproduct of a production process.

~~"Inert waste"~~ means ~~solid waste which is physically, chemically and biologically stable from further degradation and considered to be nonreactive. Inert wastes include rubble, concrete, broken bricks, bricks, and blocks.~~

"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include ~~infectious~~ *regulated medical* waste from health care facilities and research facilities that must be managed as an [~~infectious~~ *regulated medical*] waste.

"Integrated waste management plan" means a governmental plan that considers all elements of waste management during generation, collection, transportation, treatment, storage, ~~and disposal, and litter control~~ and selects the appropriate methods of providing necessary control and services for effective and efficient management of all wastes. An "integrated waste management plan" must provide for source reduction, reuse and recycling within the jurisdiction and the proper funding and management of waste management programs.

"Jurisdiction" means a local governing body; city, county or town; or any independent entity, such as a federal or state agency, which join with local governing bodies to develop a waste management plan.

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill.

~~"Large diameter tree stumps"~~ means tree stumps ~~too large to be chipped or processed using available technology larger than six inches in diameter.~~

"Litter" means all waste material disposable packages or containers, but not including the wastes of the primary processes of mining, logging, farming, or manufacturing.

~~"Nonhousehold waste" or "nonhousehold solid waste" means any solid waste that is not defined as "household waste."~~

"Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste that has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses.

"Municipal solid waste" means waste that is normally composed of residential, commercial, and institutional solid waste [and residues derived from the combustion of these wastes].

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or ~~so as to pose within the determination of the director a substantial present or potential hazard to human health or the environment, including the pollution of air, land, surface water or groundwater. For further detail see the Virginia Solid Waste Management Regulations~~ *present a threat of a release of harmful substances into the environment or present a hazard to human health.* [Such a site is subject to the open dump criteria in 9 VAC 20-80-180.]

"Permit" means the written permission of the director to own, operate or construct a solid waste management facility.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

~~"Principal recyclable materials" means newspaper, ferrous scrap metal, nonferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, high-grade office paper, tin cans, cloth, automobile bodies, plastic and~~

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~~clean wood, brush, leaves, grass and other arboreal materials, paper, metal (except automobile bodies), plastic, glass, yard waste, wood, and textiles.~~ "Principal recyclable materials" ~~do~~ does not include large diameter tree stumps.

"Recycled material" means a material that is derived from recycling.

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product, which may or may not be similar to the original product. *For the purpose of this chapter, recycling shall not include processes that only involve size reduction.*

"Refuse" means all solid waste products having the character of solids rather than liquids and ~~which that~~ are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

"Regional boundary" means the boundary defining an area of land that will be a unit for the purpose of developing a waste management plan, and is established in accordance with ~~[Part V (9 VAC 20-130-180 et seq.)~~ through 220] of this chapter.

"Regulated medical waste" means solid wastes so defined by the Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.) as promulgated by the Virginia Waste Management Board.

"Residential waste" means household waste.

"Resource recovery system" means a solid waste management system ~~which that~~ provides for collection, separation, recycling and recovery of energy or solid wastes, including disposal of nonrecoverable waste residues.

~~"Reused" means having once been a waste and being:~~

- ~~1. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or~~
- ~~2. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.~~

"Reuse" means the process of separating a given solid waste material from the waste stream and using it, without processing or changing its form, other than size reduction, for the same or another end use.

"Rubbish" means combustible or slowly putrescible discarded materials ~~which that~~ include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage."

"Sanitary landfill" means an engineered land burial facility for the disposal of solid waste ~~which that~~ is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

"Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, or metal pieces that may be combined together with bolts or soldering ~~which that~~ are discarded material and can be recycled. *For the purposes of this chapter, this definition includes the reclaimable metal parts of white goods.*

"Site" means all land and structures, other appurtenances, and improvements on them used for treating, storing, and disposing of solid waste. This term includes adjacent land within the ~~[property facility]~~ boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste. (Note: This term includes all sites whether they are planned and managed facilities or open dumps.)

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~~"Sludge" means any solid, semisolid or liquid waste wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility, or any other waste producing facility.~~

~~"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include: 1. (i) solid or dissolved material in domestic sewage, 2. (ii) solid or dissolved material in irrigation return flows or in industrial discharges which that are sources subject to a permit from the State Water Control Board, or 3. (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended. As used in this chapter, solid waste does not include hazardous wastes as defined in the Virginia Hazardous Waste Management Regulations.~~

~~"Solid waste disposal facility" means a solid waste management facility at which solid waste will remain after closure.~~

~~"Solid waste management facility ('SWMF')" means a site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.~~

~~"Source reduction" means any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.~~

~~"Source separation" means separation of recyclable materials from the waste stream by the waste generator of materials that are collected for use, reuse, or recycling.~~

~~"Special wastes" mean means solid wastes that are difficult to handle, require special precautions because of hazardous properties or the nature of the waste creates waste management problems in normal operations.~~

~~["State solid waste management plan ('State Plan' or 'Plan')" means the document prepared in accordance with § 4008(a)(1) of the Federal Resource Conservation and Recovery Act of 1976 and plan of the Virginia Waste Management Board, which sets forth solid waste management goals and objectives, and describes planning and regulatory concepts to be employed by the Commonwealth.]~~

~~"Supplemental recyclable material" means construction rubble, tires, concrete, and similar inert materials waste tires, used oil, used oil filters, used antifreeze.] automobile bodies, construction waste, demolition waste, debris waste, batteries, ash, sludge or large diameter tree stumps, or material as may be authorized by the director.~~

~~"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.~~

~~"Transfer station" means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery.~~

~~["Used or reused material" means a material which is either:~~

- ~~1. Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or~~
- ~~2. Employed in a particular function or application as an effective substitute for a commercial product or natural resources.~~

~~For purposes of these regulations, "used or reused material" means a given solid waste material that is separated from the waste stream and used, without processing or changing its form, for the same or another end use.]~~

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*"Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.*

~~*["Used or reused material" means a given solid waste material that is separated from the waste stream and used, without processing or changing its form, for the same or another end use.]*~~

*"Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.*

*"Waste exchange" means any system to identify sources of wastes with potential for reuse, recycling or reclamation and to facilitate its acquisition by persons who reuse, recycle or reclaim it, with a provision for maintaining confidentiality of trade secrets.*

~~*"Waste-to-energy facility" means a facility that uses waste to generate usable energy, or treats the waste in order to facilitate its use in the production of usable energy.*~~

*"White goods" means any stoves, washers, hot water heaters or other large appliances. For the purposes of this chapter, this definition also includes, but is not limited to, such Freon-containing appliances as refrigerators, freezers, air conditioners, and dehumidifiers.*

*"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.*

~~*[PART II.*~~

~~*LEGISLATIVE AUTHORITY AND GENERAL INFORMATION]*~~

**9 VAC 20-130-20. Authority for regulations.**

These regulations are promulgated pursuant to Chapter 14 (§ 10.1-1400 et seq. and specifically §§ ~~[10.1-1402,]~~ 10.1-1411 and 10.1-1413.1) of Title 10.1 of the Code of Virginia, which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of the Virginia Waste Management Act ~~[(hereinafter Act)]~~ and the federal acts.

**9 VAC 20-130-30. Policy.**

It is the policy of the Virginia Waste Management Board to require each region designated pursuant to Part V of this chapter, as well as each city, county and town not part of such a region, to develop comprehensive and integrated solid waste management plans that, at a minimum, consider *and address* all components of the following hierarchy:

1. Source reduction;
2. Reuse;
3. Recycling;
4. Resource recovery (waste-to-energy);
5. Incineration; *and*
6. Landfilling; ~~and.~~
7. ~~Plan implementation.~~

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**9 VAC 20-130-40. Purpose of regulations.**

The purpose of these regulations is to:

1. Establish minimum solid waste management standards and planning requirements for protection of the public health, public safety, the environment, and natural resources throughout the Commonwealth; promote local and regional planning that provides for environmentally sound *and compatible* solid waste management with the most effective and efficient use of available resources;
2. Establish procedures and rules for designation of regional boundaries for solid waste management plans;
3. Establish state, local government ~~and~~, regional *or area served by the plan* responsibility for meeting *and maintaining* the minimum recycling rates of ~~10% by 1991, 15% by 1993 and 25% by 1995;~~
4. Establish ~~[procedure for withholding the requirement,] issue [issuance of permits] to local governments [for solid waste management facilities] after July 1, 1992, pending approval of a solid waste management plan in [accordance compliance] with [the Virginia Waste Management Act,] §§ 10.1-1411 and 10.1-1408.1 D (vi) [of the Virginia Waste Management Act, for withholding issuance of permits for solid waste management facilities] and~~
5. Provide for reasonable variance and exemptions,; *and*
6. *Provide for reporting and assessment of solid waste management in the Commonwealth [in accordance with the Virginia Waste Management Act, § 10.1-1413.1].*

**9 VAC 20-130-50. Administration of regulations.**

The director ~~of the Department of Environmental Quality~~ is authorized and directed to administer and enforce these regulations in accordance with the Virginia Waste Management Act, §§ 10.1-1400 through 10.1-1457 of the Code of Virginia.

**9 VAC 20-130-60. Applicability of regulations.**

A. This chapter applies to all cities, counties, towns, ~~or designated regions, regional planning districts or public service authorities~~ (under 9 VAC 20-130-180) and permitted solid waste facilities. Any county and town within that county may mutually agree to unite for the purpose of solid waste management planning, and upon joint written notification to the director, shall be deemed to be a single unit for development of a local solid waste management plan.

*B. Any cities, counties, and towns may be represented by a planning district, public service authority, or designated region that has been adopted under 9 VAC 20-130-90 B.*

~~B.~~ C. The plan may (subject to statutory authority) specify that all solid waste must be recycled at the rate established by the plan regardless of the point of origin of the solid waste. Solid wastes from both public and private sources shall be subject to such requirement.

**9 VAC 20-130-70. Enforcement and appeal.**

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this chapter shall be governed by the Virginia Administrative Process Act (§ 9-6.14:1 *et seq.* of the Code of Virginia). [Enforcement of this chapter will be in accordance with §§10.1-1186, 10.1-1411 and 10.1-1455 of the Code of Virginia.]

~~B. Orders.~~

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~~1. The board is authorized to issue orders to require any person to comply with the provisions of this chapter. Any such order shall be issued only after a hearing with at least 30 days notice to the affected person of the time, place, and purpose of it. Such an order shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of such person.~~

~~2. The provisions of 9 VAC 20-130-70 B 1 shall not affect the authority of the board to issue separate orders and regulations to meet any emergency to protect public health, natural resources, and the environment from the release or imminent threat of release of waste.~~

~~C. B. After July 1, 1992 2000, no permit for a solid waste management facility shall be issued until unless the local or regional applicant has a plan approved in accordance with this chapter [and the permit complies with the statutory requirements of the Virginia Waste Management Act, §§ 10.4-1411 and 10.1-1408 1 D 1(iv)].~~

~~D. [C. Enforcement of this chapter will be in accord with §§ 10.1-1186, 10.1-1411 and 10.1-1455 of the Code of Virginia.]~~

**9 VAC 20-130-80. Severability. (Repealed.)**

~~A. If any provision or part of these regulations is held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of these regulations and their application.~~

~~B. This chapter supersedes and replaces all previous regulations of the Department of Waste Management to the extent that those prior regulations conflict with the regulations presented in this chapter. Prior regulations remain in effect where no conflict exists.~~

~~C. This chapter shall remain in effect until the Virginia Waste Management Board, in subsequent formal action, shall amend, rescind or otherwise alter them. Such an action will be specific in its detail and cite this chapter by its title. Where there appears to be a conflict with this chapter and regulations adopted at a future date, and such future regulations do not specifically clarify this chapter, this chapter shall be superior.~~

~~D. This chapter is completely separate from all federal regulations.~~

**9 VAC 20-130-90. Relationship to other bodies of regulation.**

A. This chapter is a ~~general~~ solid waste management regulation that specifies minimum standards and planning requirements for solid waste management *in the Commonwealth, including solid waste management planning* by regional or local governmental entities of the Commonwealth *and assessment of solid waste management in the Commonwealth*. If there is a mutually exclusive conflict between this chapter and other adopted nonhazardous solid waste management regulations of this agency, the provisions of this chapter are superior. In any detail where there exists no mutually exclusive conflict between this chapter and other regulations of the board, compliance with all regulations is required.

B. Multi-jurisdictional plans developed in fulfillment of the requirements of this chapter must be adopted under authority of the ~~Virginia Area Development~~ *Regional Cooperation Act* (Chapter ~~34 42~~ (§ ~~45.1-1400 15.2-4200~~ et seq.) of Title ~~45.1 15.2~~ of the Code of Virginia), the *Virginia Water and Sewer Waste Authorities Act* (Chapter ~~28 51~~ (§ ~~45.1-1239 15.2-5100~~ et seq.) of Title ~~45.1 15.2~~ of The Code of Virginia), the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions (§ ~~45.1-24 15.2-1300~~), or other authority as applicable.

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C. If there is a mutually exclusive conflict between this chapter and the Virginia Hazardous Waste Management Regulations, the provisions of the hazardous waste regulations are superior. In any detail where no such mutually exclusive conflict exists, compliance with all regulations is required.

[PART III.

OBJECTIVES AND PERFORMANCE REQUIREMENTS]

**9 VAC 20-130-110. Schedule for plan development.**

A. Every city, county and town in the Commonwealth shall develop a solid waste management plan or amend an existing solid waste management plan and submit ~~them~~ it for approval in accordance with this chapter. Existing plans may be amended by addendum of items such as consideration of the waste management hierarchy, the recycling program implementation activities and other requirements of this chapter that are not a part of the existing plan. A local jurisdiction participating in an authorized regional solid waste management plan is not required to develop a separate plan.

~~A. B. [The solid waste management planning units shall be divided into four groups per Schedule 1. The first group shall provide a~~ A] complete, revised solid waste management plan in compliance with this chapter [shall be provided] to the department of Environmental Quality no later than July 1, 1994 ~~[2003 2004. The second group shall submit its complete, revised plans by October 1, 2003, the third group by January 1, 2004, and the fourth group by April 1, 2004.]~~

~~B. C. The department of Environmental Quality shall review and approve or disapprove~~ return comments on the deficiencies in each plan submitted in accordance with 9 VAC 20-130-110 A no later than ~~July 1, 1992. If the Department of Environmental Quality disapproves the plan, it shall cite the reasons for the disapproval and state what is required for approval 90 days from the date the plans are received. [In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed.]~~

~~C. D. Each submitter whose~~ who receives comments on its solid waste management plan is ~~disapproved~~ under ~~9 VAC 20-130-110 B~~ subsection C of this section shall submit a corrected solid waste management plan to the department of Environmental Quality no later than 90 days following [receipt of] notification of ~~disapproval~~ deficiencies.

~~D. E. Plans approved without alteration shall become effective upon notification. If~~ after review of the corrected plan submitted pursuant to subsection D of this section, the department of Environmental Quality cannot approve the corrected solid waste management plan because it finds the plans not to be in accordance with this chapter, it will issue a notice of ~~disapproval~~ intent to disapprove to the submitter ~~and shall cite the reason for the disapproval and state what is required for approval. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, and (iii) the right of the submitter to an informational proceeding under Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).~~ The department will give priority consideration for review of corrected plans where the local or regional body has a pending permit application for a solid waste management facility.

~~E. On July 1, 1997, and each succeeding five-year period after that, each city, county, town or region shall submit a report to the director updating the plan.~~

~~F. The director may revoke the approval of any plan or require its revision and resubmittal if there is evidence that there has been significant deviation from the plan. The department will issue a notice of intent to revoke or require revision and resubmittal of a plan. The notice of intent shall set forth (i) whether the department intends to revoke or require revision and resubmittal of the plan, (ii) the reason the department intends to take the action, and (iii) the right of the submitter of the plan to an informational proceeding under Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).~~

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**9 VAC 20-130-120. Mandatory plan objectives contents.**

A. The solid waste management plan shall include:

1. An integrated waste management strategy;
2. *A discussion as to how the plan will be implemented;*
3. Objectives for solid waste management within the jurisdiction;
4. Definition of incremental stages of progress toward the objectives and schedule for their ~~accomplishment~~ *implementation;*
5. Descriptions of the funding and resources necessary, including consideration of fees dedicated to future facility development;
6. Strategy for the provision of necessary funds and resources;
7. Strategy for public education and information on *source reduction, reuse, and recycling;* and
8. Consideration of public and private sector partnerships and private sector participation in execution of the plan. Existing private sector recycling operations should be incorporated in the plan and the expansion of such operations should be encouraged.

~~B. The plan shall describe how each of the following minimum goals were or shall be achieved:~~

1. ~~By December 31, 1991, a recycling rate of 10% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town or region.~~
2. ~~By December 31, 1993, a recycling rate of 15% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town, or region.~~
3. ~~By December 31, 1995, a recycling rate of 25% of the total of household wastes and principal recyclable materials that are wastes from nonhousehold sources generated annually in each city, county, town, or region.~~

*B. A minimum recycling rate of 25% of the total municipal solid waste generated annually in each city, county, town or region shall be maintained. The plan shall describe how this rate shall be met or exceeded.*

C. Calculation methodology shall be included in the plan.

1. ~~The plan shall describe method of calculating the rate of recycling. Three alternative methods of calculation are permitted. These are:~~

~~a. Where accurate documentation of the total weight of solid waste received for landfilling, incineration and recycling within the jurisdiction of the plan exists, the percentage recycled can be calculated directly as:~~

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

~~Where, "Total" is the weight of the total of household wastes and principal recyclable material as wastes from nonhousehold sources received from within the jurisdiction or exported during the previous 12 months for landfilling, incineration and recycling, and "Recycled" equals weight of principal recyclable material received during the previous 12 months for recycling.~~

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~~b. Where accurate documentation of the total volume of solid waste received for landfilling, incineration and recycling within the jurisdiction of the plan exists, the percentage recycled can be calculated directly as:~~

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

~~Where, "Total" is the volume of the total of household wastes and principal recyclable materials as wastes from nonhousehold sources received from within the jurisdiction or exported during the previous 12 months for landfilling, incineration and recycling, and "Recycled" equals volume of principal recyclable material received during the previous 12 months for recycling.~~

~~c. Where accurate documentation of the total waste received for landfilling, incineration and recycling is not available, the most accurate survey or estimate of the per capita weight of the total of household wastes and principal recyclable material as wastes from nonhousehold sources generated within the jurisdiction during the previous 12 months shall be used to calculate the "Total" and the measured weight of principal recyclable material recycled shall be use as "Recycled" in the formula:~~

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%.$$

1. *The plan shall describe the method of calculating the rate of recycling. The following formula shall be used:*

$$\text{Rate} = (\text{Recycled}/\text{Total}) \times 100\%$$

*Where, "Recycled" equals the amount of principal recyclable material received during the previous 12 months for recycling and "Total" is the amount of municipal solid waste generated within the jurisdiction during the previous 12 months.*

*The amounts may be expressed in the following units:*

- a. The actual weight of each component.*
- b. The volume of each component.*
- c. The estimated weight of each component based on the most accurate survey or estimated per capita weight.*

2. The amount of supplemental recyclable material that is ~~productively used or sold as product substitute or other beneficial products~~ *reused or recycled* may be added into *both* the "Recycled" and "Total" amounts in each calculation method.

3. Any local government or regional solid waste management body that is participating in the used tire management program sponsored by the department of ~~Environmental Quality~~ may add the ~~weight amount~~ *weight amount* of those tires to *both* the "Recycling" and "Total" amounts in the recycling rate calculation.

4. Any local government or regional solid waste management body may include mulched yard waste in [both] the "Recycled" and "Total" amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished mulch will be marketed or otherwise used productively. In addition, any local government or regional solid waste management body may include composted yard waste in [both] the "Recycled" and "Total" amounts simultaneously for the required recycling rate calculations if it can be demonstrated that the finished compost will be marketed or otherwise used productively.

5. Any local government or regional solid waste management body may include used oil, used oil filters and used antifreeze in the "Recycled" and "Total" amounts if it can be demonstrated that the oil used oil filters and used antifreeze will be marketed or used productively.

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~~4. 6. Where a source reduction of any municipal solid waste material or reuse of waste a principal recyclable material is documented to have occurred after the effective date of this chapter, is accurately quantified and is requested as a petition for a variance in accordance with Part VI 9 VAC 20-130-230, the director may issue a credit for the amount to be added into the "Recycled" and "Total" amounts in each calculation method. The credit may be for a part of the source reduction or reuse amount if the director finds that to be more appropriate. The director shall not grant such a credit only where an effective recycling program is not being implemented. The director shall not grant the credit if the minimum recycling rate of 25% is being achieved.~~

[These regulations shall permit a credit, to be added into the "Recycled" and "Total" amounts in each calculation method, of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of § 10.1-1408.1 of the Code of Virginia. The total annual credits shall not exceed one-fifth of the 25% required recycling rate.]

~~(Note: "Principal Recyclable Materials" means newspaper, ferrous scrap metal, nonferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, high-grade office paper, tin cans, cloth, automobile bodies, plastic and clean wood, brush, leaves, grass and other arboreal materials. "Principal Recyclable Materials" do not include large diameter tree stumps. "Supplemental recyclable material" means construction rubble, tires, concrete, and similar inert materials, batteries, ash, sludge or large diameter tree stumps, or as may be authorized by the director.)~~

~~D. A report on progress in attaining the recycling goals established in 9 VAC 20-130-120 B shall be submitted to the Department of Environmental Quality within 120 days of the date prescribed in that section. The department will prepare a statewide summary progress report based on the data submitted.~~

~~E. By July 1, 1993, D. All known solid waste disposal sites, closed [inactive] and active, within the area of the solid waste management plan shall be documented and recorded at a centralized archive authorized to receive and record information *and a copy shall be sent to the director.* Thereafter, All new sites shall be recorded at the same central data source.~~

~~F. By July 1, 1993, E. A method methodology shall be developed utilized to monitor the amount of solid waste of each type produced within the area of the solid waste management plan and to record the annual production by solid waste types at a centralized archive *and a copy shall be sent to the director.* Waste types include but are not limited to broad classes such as residential, commercial and municipal solid waste, construction/demolition/debris, industrial, regulated medical waste, white goods, friable asbestos, petroleum contaminated soil and the major categories of principle and supplemental recyclable materials.~~

**9 VAC 20-130-130. Public participation.**

~~A. Prior to submission of a solid waste management plan or a major amendment to the plan to the department of Environmental Quality, the submitter shall publish a notice and hold a public hearing on the plan in accordance with the procedures of the local government or regional planning agency. A record of the public hearing *and, a copy of all written comments and the submitter's response to all comments received* shall be submitted with the plan.~~

~~B. Plan developers ~~should~~ shall, in accordance with their own rules and procedures, provide for extensive participation by the public through the use of citizen advisory committees and public meetings during the development of the plan.~~

[PART IV.

WASTE MANAGEMENT PLAN CONTENTS]

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**9 VAC 20-130-140. General Plan objectives.**

Every solid waste management plan shall be a fully integrated waste management plan that considers all elements of waste management. ~~The plan shall:~~

1. Include consideration of the hierarchy defined in 9 VAC 20-130-30 giving preference to alternatives in the following order of priority: source reduction, reuse, recycling, resource recovery, incineration, and landfilling;
2. Clearly and explicitly demonstrate the manner in which the goals of the mandatory objectives defined in 9 VAC 20-130-120 shall be accomplished;
3. Include, when developed locally, a copy of the local governing body's resolution adopting the plan; and
4. Include, when developed regionally, a copy of the resolution approving the plan adopted in accordance with the Virginia Area Development Act, the Virginia Water and ~~Sewer Waste~~ Authorities Act, the provisions of the Code of Virginia governing joint exercise of powers by political subdivisions § ~~15.1-24~~ 15.2-1300 of the Code of Virginia, or other authority as applicable.

**9 VAC 20-130-150. Incorporated data.**

The local government or regional solid waste management plan shall include data and analyses of the following type for each jurisdiction. *Each item below shall be in a separate section and labeled as to content*

1. ~~Demographic~~ Population information and projections ~~over 20~~ for ~~[40 20]~~ years of population growth and development patterns;
2. Urban concentrations, geographic conditions, *economic growth and development*, *markets for the reuse and recycling of materials*, transportation conditions, and related factors;
3. Estimates of solid waste generation from households, commercial institutions, industries and other types of sources, including the amounts reused, recycled, recovered as a resource, incinerated and landfilled. Estimates should identify special waste to include, at least, the following: stumps, land-clearing debris and construction wastes, motor vehicle tires, waste oil, batteries, sludges, mining wastes, septage, agricultural wastes and spill residues;
4. A listing of existing and planned solid waste collection, storage, treatment, transportation, disposal and other management facilities, their projected capacities, *expected life* and systems for their use;
5. All milestones in the implementation of the solid waste management plan over the 20-year projection and the parties responsible for each milestone;
6. A description of programs for solid waste reduction, *reuse*, recycling, ~~reuse~~ *resource recovery*, *incineration*, storage, treatment, disposal and litter control;
7. A description of outreach programs for waste exchange, public education and public participation; ~~and~~
8. The procedures for and results of evaluating solid waste collection, including transfer stations.; *and*
9. *The assessment of all current and ~~[predictable predicted]~~ needs for solid waste management for a period of 20 years and a description of the action to be taken to meet those needs.*

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**9 VAC 20-130-160. Assessment of solid waste management needs. (Repealed.)**

~~The solid waste management plan shall assess all current and predictable needs for solid waste management for a period of twenty years and describe the action to be taken to meet those needs.~~

**9 VAC 20-130-165. Waste Information and Assessment Program.**

A. The owners or operators of all permitted facilities that treat, store, or dispose of solid waste shall report by March 31 of each year the amount of solid waste, by weight or volume, received and managed in the Commonwealth during the preceding calendar year. The report shall identify solid waste by the following categories: (i) municipal solid waste; (ii) construction and demolition debris; (iii) industrial waste; (iv) regulated medical waste; (v) vegetative and yard waste; (vi) incinerator ash; (vii) sludge other than sludge that is land applied in accordance with § 32.1-164.5 of the Code of Virginia; (viii) tires; (ix) white goods; (x) friable asbestos; (xi) petroleum contaminated soil; and (xii) other special waste. For each such category the report shall include an estimate of the amount that was generated outside of the Commonwealth and the jurisdictions where such waste originated. The report shall also estimate the amount of solid waste managed or disposed of by each of the following methods: (i) recycling; (ii) composting; (iii) landfilling; (iv) incineration (v) sending off site for further management; and (vi) stored on site on December 31 of the reporting year. This section shall not apply to captive waste management facilities. [The report is to be sent to the department regional office for the facility's location.]

Information on the available capacity and expected life of the facilities at the disposal rates submitted in this subsection shall be included in the annual report required by this section.

B. At the option of the facility owner, the data collected may include an accounting of the facility's economic benefits to the locality where the facility is located including the value of disposal and recycling facilities provided to the locality at no cost or reduced cost, direct employment associated with the facility, and other economic benefits resulting from the facility during the preceding calendar year.

C. No facility shall be required pursuant to this section to provide information that is a trade secret as defined in § 59.1-336 of the Code of Virginia.

D. Every city, county and town in the Commonwealth, or solid waste management planning region approved pursuant to 9 VAC 20-130-180, shall submit to the department by April 30 of each year, the data and calculations required in 9 VAC 20-130-120 B and C.

**9 VAC 20-130-170. Assessment of alternatives. (Repealed.)**

~~The solid waste management plan shall consider at least, the following factors:~~

- ~~1. Fulfillment of the mandatory objectives of 9 VAC 20-130-120;~~
- ~~2. Consideration of the hierarchy of 9 VAC 20-130-30;~~
- ~~3. Environmental compatibility;~~
- ~~4. Economic growth and development; and~~
- ~~5. Solid waste collection.~~

**9 VAC 20-130-175. Amendments to plans.**

A. Amendments to the plans shall be classified as major or minor. These classifications are described [in this section below].

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1. Major amendments shall include any addition, deletions, or cessation of operation of any solid waste facility; any increase in landfill capacity; any change that moves toward implementation of a waste management strategy that is lower in the waste management hierarchy; and any change to membership in the approved area.

2. Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy and any nonsubstantive administrative change such as a change in name.]

*B. Any amendments to the plans shall be approved by the department prior to implementation.*

~~[1. Major amendments shall include any addition, deletions, or cessation of operation of any solid waste facility; any increase in landfill capacity; any change that moves toward implementation of a waste management strategy that is lower in the waste management hierarchy; and any change to membership in the approved area.~~

~~2. Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy and any nonsubstantive administrative change such as a change in name.]~~

*C. Major amendments shall require the same public participation as detailed in 9 VAC 20-130-130 before being submitted to the department for approval.*

*D. Minor amendments shall be submitted directly to the department for approval.*

*E. The department shall review[ amendments] and approve or return comments on the deficiencies in each amendment submitted in accordance with this section no later than 90 days from the date the plans are received. [In the event the department is unable to complete its review within 90 days, the applicant will be notified and given a date as to when the review will be completed.]*

*F. Each submitter who receives comments on his solid waste management plan under subsection E of this section shall submit a corrected amendment to the department no later than 90 days following notification of deficiencies.*

*G. Amendments approved without alteration shall become effective upon notification. If after review of the corrected amendment submitted pursuant to subsection F of this section, the department cannot approve the corrected amendment because it finds the amendment not to be in accordance with this chapter, it will issue a notice of intent to disapprove to the submitter. The notice of intent to disapprove shall set forth (i) the reason for the disapproval, (ii) what is required for approval, and (iii) the right of the submitter to an informational proceeding under Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The department will give priority consideration for review of corrected amendments when the local or regional body has a pending permit application for a solid waste management facility.*

~~[PART V.~~

~~AUTHORIZING OF REGIONAL BOUNDARIES.]~~

**9 VAC 20-130-180. Designation of regions.**

The director has been authorized by the Governor to designate regional boundaries defining areas and jurisdictions to be considered for joint development of solid waste management plans. Only those regions meeting the standards established in this ~~part~~ chapter will be considered. Any group of jurisdictions may petition the director for designation as a region, and, if the proposed region meets the standards established for designation, the director shall approve the request.]

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**9 VAC 20-130-190. Development of designated regions.**

A. At least 14 days prior to designating a regional boundary for solid waste management planning, the director shall place a notice of the proposed regional boundary and an opportunity to comment in the Virginia Register of Regulations and in a newspaper of general circulation within the proposed region.

B. If, as a result of the notices required by ~~9 VAC 20-130-190 subsection A of this section~~, the director feels a significant need exists to hold a public hearing on the issues, a *public* hearing shall be held in the proposed region prior to the designation. At least 14 days prior to the *public* hearing, a notice of the proposed *public* hearing shall appear in the same publications as the notice under ~~9 VAC 20-130-190 subsection A of this section~~.

**9 VAC 20-130-220. Amendment of regional boundary.**

The director may amend a regional boundary based on an application from the governing body or bodies of the region. *Along with the application, each locality (within the original region and any locality being added) must submit a letter acknowledging the change in the boundary.*

[PART VI.

~~RULEMAKING PETITIONS AND PROCEDURES.]~~

**9 VAC 20-130-230. General Petitioning for variance or exemption.**

A. Any person ~~affected~~ *regulated* by this chapter may petition the director to grant a variance or an exemption from any requirement of this chapter subject to the provisions of this ~~[part-section]~~. Any petition submitted to the director is also subject to ~~the provisions~~ Article 3 of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

~~**9 VAC 20-130-240. Administrative procedures.**~~

~~A. General petitioning requirements.~~ B. The petition shall be submitted to the director by certified mail and shall include:

1. The petitioner's name and address;
2. A statement of petitioner's interest in the proposed action;
3. A description of desired action and a citation of the regulation from which a variance is requested;
4. A description of need and justification for the proposed action, including impacts from existing operations and market conditions (if, based on the evidence submitted in a petition, the director determines that market conditions within a county, city, town or region make unreasonable the mandatory recycling rates specified in this chapter and that the market conditions are beyond the control of the county, city, town or region, a variance from those rates may be issued.);
5. The duration of the variance, if applicable;
6. The potential impact of the variance on public health or the environment;
7. Other information believed by the applicant to be pertinent; and
8. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I

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believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

**B. Petition processing.**

~~1. After receiving a petition that includes the information required in 9 VAC 20-130-240 A, the director will determine whether the information received is sufficient to render the decision. If the information is deemed insufficient, the director will specify additional information needed and request that it be furnished.~~

~~2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for additional information. If the director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with 9 VAC 20-130-240 B 3. If the director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.~~

~~3. After the petition is deemed complete:~~

~~a. The director will make a tentative decision to grant or deny the petition;~~

~~b. Where the petition is tentatively denied, the director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the director to proceed with the evaluation;~~

~~c. Unless the petition is withdrawn, the director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the applicant is located. The director will accept comment on the tentative decision for 30 days after publication of public notice;~~

~~d. Upon a written request of any interested person, the director may, at his discretion, hold an informal fact-finding meeting described in Article 3 (§ 9-6.14:11 et seq.) of the Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold such a meeting;~~

~~e. After evaluating all public comments the director will:~~

~~(1) Within 15 days after the expiration of the comment period, notify the applicant of the final decision; and~~

~~(2) Publish it in a newspaper having circulation in the locality.~~

**C. Petition resolution.**

~~1. In the case of a denial, the petitioner has a right to request of the director a formal hearing to challenge the rejection.~~

~~2. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.~~

**DOCUMENTS INCORPORATED BY REFERENCE**

Paint Filter Liquids Test, Method 9095, USEPA Publication SW-846.

**NOTICE:** The forms used in administering 9VAC 20-130-10 et seq., Regulations for the Development of Solid Waste Management Plans, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

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FORMS

*Form DEQ 50-25, Solid Waste Information and Assessment Program – Reporting Table, rev. 6/6/00.*

*Form DEQ 50-30, Locality Recycling Rate Report, eff. 6/15/00.*